



H.R. 4220 – Federal Food Donation Act of 2007

Floor Situation

H.R. 4220 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Jo Ann Emerson (R-MO) on November 15, 2007. The bill was ordered to be reported from the Oversight and Government Reform Committee, by voice vote, on December 12, 2007.

H.R. 4220 is expected to be considered on the floor on December 17, 2007.

**Note: Identical legislation (S. 2420) was introduced in the Senate by Senator Charles Schumer (D-NY), but has not yet been considered.*

Background

According to the Department of Agriculture's annual hunger survey (released in November), 35.5 million (12.1% of the population) people experienced food insecurity in 2006. The previous survey found 35.1 million that experienced food insecurity.

The Bill Emerson Good Samaritan Act was signed into public law by President Clinton in 1996 (PL 104-210). This law provides liability protections to those providing food donations and non-profit organizations that accept the donations of "apparently wholesome food."

**Note: The U.S. Code defines "apparently wholesome food" as food that "meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions."*

In providing these protections, the Act pre-empted all state laws in regards to providing liability to donors of food.

Summary

H.R. 4220 would adjust federal regulations within 180 days to ensure that all contracts above the simplified acquisition threshold to encourage the donation of excess apparently wholesome food to non-profit organizations that provide assistance to food-insecure people.

**Note: According to the Federal Acquisition Regulations (FAR), the simplified acquisition threshold is \$100,000, except for those contracts awarded to "support*

a contingency operation or to facilitate defense against or recovery from a nuclear, biological, chemical, or radiological attack." In those cases, the threshold is \$250,000 for contracts within the United States and \$1 million outside the United States. The simplified acquisition procedures are used to make the contracting process more efficiency, less costly administratively, and provide additional contracting opportunities to small businesses.

The bill also clarifies that the head of the appropriate agency is not responsible for collecting, transporting, securing, or distributing the excess food.

Additionally, the bill ensures that agencies and contractors are provided with liability protections against criminal and civil liability in accordance with the Bill Emerson Good Samaritan Food Donation Act.

Cost

This legislation has not yet been scored by the Congressional Budget Office.

Additional Views

Upon introducing H.R. 4220, Representative Emerson noted: "the effects of rising prices have already been felt by our partners who serve the hungry. More resources are clearly needed. The Federal Food Donation Act may be a small step in the overall battle against hunger, but it is one worth taking."

Staff Contact

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